

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 3-6, 8, 14, 21, 23, 27, 31 and 34, canceled claims 2 and 33, and added new claims 38-43. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the examiner's indication that claims 7, 9, 10, 17, 18 and 20 contain allowable subject matter.

Claim 1 was rejected under sec. 102b as being anticipated by Achen. The Achen patent describes a "vent with security grate", title, which refers to a "conventional...screen...to discourage passage of insects and debris through the vent..." at column 3, lines 46-50. The subject invention has no "vent(s)" and no "screen(s)."

Subject independent claims 1 and 34 have been amended to include "a solid barrier material with/having no spaces and no gaps therethrough....a separate arthropod repellent substance.....for deterring crawling arthropods and impeding their route of travel.....the barrier material preventing and blocking airflow from passing therethrough...." The features of the barrier material are described on at least page 3 of the specification and have further antecedent bases back to the parent application referenced on page 1 of the specification of the subject application. Clearly, these novel features are not described, taught, or suggested by Achen.

Achen allows for air and drafts to infiltrate through their screen and vent, and does not anticipate nor render obvious the "solid barrier" of the subject invention with a "separate arthropod deterring/repellent component substance associated with said sheet..." as claimed in the subject application.

Subject claims 42 and 43 further define this separate substance to be " selected from at least one of: a repellent substance, a pesticide, and a slippery substance."

Clearly, Achen does not describe, teach, nor suggest all of the claimed features referenced above. Thus, removal of the Achen reference is respectfully requested.

Claims 2-6, 8, 11-16, 19, 21-32, 34-37 were rejected under sec. 103 as being unpatentable over Achen.

Applicant strongly disagrees with the statement that it "would have been an obviousto use walls, ceilings, and floors....." without citing a specific reference that shows these statements to be accurate.

Applicant strongly disagrees with the statement that it "would have been an obviousto use shower faucet handles, pipes, drainlines for sinks, incoming water lines for sinks, waterlines for showerheads, electric powered fixtures, ceiling fans, lights, drain receptacles, vent covers, wall switches and covers, telephone jacks and covers, thermostats mounted to a wall portion, electrical sockets and covers, and cable sockets and covers....." without citing a specific reference that shows these statements to be accurate.

It is clearly improper for the examiner to arbitrarily ignore any of the novel features of any of the claims. Under the rules of the MPEP, if the applicant requests the examiner cite the reference(s) showing each and every one of the references that supports a rejection, the examiner must cite the reference or remove the rejection. Under MPEP 706.02 and 37 C.F.R. 1.107(b), applicant again requests the examiner specifically point out which uncited reference(s) describes and teaches these unsubstantiated opinions and assertions raised in the rejection that the features of all the claimed referenced above are obvious under sec. 103. Under the MPEP and CFR sections cited above, the examiner

must cite the reference(s) that shows these unsubstantiated opinions and assertions mentioned in their rejection, or remove the 103 rejection for at least these reasons alone.

Applicant further strongly disagrees with the statement that regarding claim 34-37, the claimed methods are the obvious methods of using Achen's modified vent with security grate...." As described above, Achen describes a "screen" and not a "solid barrier" with "no gaps and spaces therethrough", for "preventing airflow therethrough" as is claimed in subject claims 34-37.

The remaining references cited but not applied to Ritter, Carman and Sharples, fail to overcome the deficiencies to Achen described above.

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

There is no teaching, nor suggestion for modifying Achen nor any of the other references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438(Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims 1, 3-32 and 34-43 without utilizing Applicant's disclosure. The courts

have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the foregoing considerations, it is respectfully urged that claims 1, 3-32 and 34-43 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



Brian S. Steinberger
Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
Telephone: (321) 633-5080

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